

RESOLUTION NO. 84-028

RESOLUTION ADOPTING A MINORITY BUSINESS  
ENTERPRISE PROGRAM FOR THE CITY OF LODI

RESOLVED, that the City Council of the City of Lodi does hereby adopt a Minority (Disadvantaged) Business Enterprise Program for the City of Lodi, a copy of which is attached hereto marked Exhibit "A", and thereby made a part hereof.

BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby authorize the Mayor to execute the subject program on behalf of the City of Lodi.

Dated: March 7, 1984

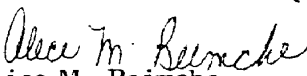
I hereby certify that Resolution No. 84-028 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 7, 1984 by the following vote:

Ayes: Council Members - Murphy, Reid, Snider,  
and Olson (Mayor)

Noes: Council Members - None

Absent: Council Members - None

Abstain: Council Members - Pinkerton

  
Alice M. Reimche  
City Clerk




## CITY OF LODI MINORITY BUSINESS PROGRAM

I. Policy Statement

It is the policy of the City of Lodi to utilize Minority Business Enterprises to the maximum extent feasible in all aspects of contracts involving FHWA funds.

This policy is fully described in the City's Minority Business Program which constitutes City policy and a commitment to substantially increase Minority Business and Female Business Utilization. This policy includes any program or facility funded wholly or in part by any U.S. Department of Transportation modal element, through City.

City of Lodi, its contractors and subcontractors, which are the recipients of Federal-aid funds, agree to ensure that minority business enterprises have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, City and all of its contractors and subcontractors will take all reasonable steps in accordance with 49CFR23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

  
Evelyn M. Olson, Mayor



II. Minority Business Enterprises (MBE) Liaison Officer

G.E. Robison, Assistant City Engineer, is the MBE Liaison Officer for the City and shall report to the City Manager. Mr. Robison will be assigned such staff as is necessary to fully implement the provision of 49 CFR Part 23 and such other MBE programs as may be required. The reporting structure and duties of support staff are shown on Attachment A.

III. Duties of the MBE Liaison Officer

The MBE Liaison Officer shall develop, manage and implement the MBE Program on a day-to-day basis. The Liaison Officer shall:

- o Develop and carry out technical assistance programs for MBE's.
- o Arrange solicitations, time for the presentation of bids, quantities, specifications, and delivery schedules, so as to facilitate the participation of MBE's. Where changes are found necessary to increase MBE utilization, they will be made in consultation and cooperation with the functional unit involved.
- o Provide guidance to MBE's in overcoming barriers, such as inability to obtain bonding or financing.
- o Carry out information and communication programs on contracting opportunities in a timely manner. Programs shall be bilingual where appropriate.
- o Investigate the services offered by banks owned and controlled by minorities or women. Ensure that, where feasible, City utilizes said banks.
- o Utilize a listing of MBE's certified by Caltrans. Said listing to be made available to all bidders on City's FHWA projects. Such listing will include the following information: Name, address, telephone number, ethnic and/or sexual ownership, type of work performed by firm.
- o Approve any removal and/or substitution of a Minority Business Enterprise during contract performance. Prior to approval of substitution and/or removal of MBE, prime contractors will be required to prove performance of good faith efforts to replace the MBE with another eligible MBE.
- o Establish overall goals for both minority and female business enterprises. Goals shall be evaluated on January 1 of each year and adjusted as necessary.
- o Establish individual project goals for minority and female business enterprises. All projects will be evaluated for the appropriateness of goals.
- o Maintain such documentation as is necessary to verify City's performance of the above activities.

IV. Establishment of Overall MBE Goal

The City will establish an overall goal for its use of MBE's. This goal will be updated annually as of January 1 of each year. The City's overall goal and the methodology used to determine the goal for the fiscal year beginning January 1 is shown on Attachment B.



V.

Contract Goals

All projects receiving U.S. DOT funds will be evaluated for the appropriateness of MBE goals. Projects will be evaluated and goals established, utilizing the following criteria:

- o Size of project.
- o Opportunities for MBE's as subcontractors, vendors, suppliers.
- o Minority population of county in which work is to be performed.
- o Existing MBE goals being utilized in the project area by other State, Federal or local jurisdictions.
- o Availability of MBE's.
- o Past experience on projects similar to the project being evaluated.
- o Such other factors as may effect the utilization of MBE's.

Each project will be evaluated in conformance with the above criteria. Complete documentation will be retained of every project so evaluated.

Contracts which do not contain specific goals will contain the following provisions:

- (1) "Policy. It is the policy of the City that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this agreement."
- (2) "MBE Obligation. (i) The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts."

MBE use on projects without goals will be reported to the Liaison Officer and will be included in City's reports to Caltrans and to the appropriate DOT element. MBE use on such projects will be counted toward attainment of the overall goal.

VI.

Public Notification

At the time of submittal of this program to the U.S. Department of Transportation, City will publish a notice in both minority and majority local media. Said publication shall:

- o Announce the City's overall goals.



- o Inform the public that the goals and a description of how they were set, are available for public inspection for a period of 30 days.
- o Inform the public that both U.S. DOT and City will accept comments on the goals for 45 days from the date of the notice.
- o The notice shall advise interested parties that comments are for informational purposes only.

In addition to the foregoing, interested minority and majority contractor organizations will receive direct mailings of this complete program with a request that they provide written comments to City on this program.

VII. Contract Procedure

This plan shall be implemented through the utilization of a contract special provision which is attached hereto. These procedures require bidders to submit the names of MBE subcontractors and suppliers, a description of the work each is to perform or material to be furnished, and the dollar value of each MBE subcontract.

VIII. MBE Notification

Projects will be advertised in local newspapers and minority focus newspapers when possible. These ads will include reference to MBE requirements and will indicate MBE and WBE goals set by the City. MBE assistance centers will receive notification of projects scheduled to be advertised. Assistance Centers, Minority Business Development Centers and Program Management Centers will receive complimentary plans and specifications for projects within their geographical area of responsibility.

IX. Minority and Female Owned Banks

City will encourage all contractors to use the services of banks owned and controlled by minorities or females. This encouragement will be disseminated during pre-bid and pre-construction conferences (if scheduled) and in the contract specifications.

X. Selection Criteria for Contracts with MBE Goals

Every contract containing MBE goals shall be evaluated by the MBE Liaison Officer or his/her designee to ascertain bidding contractors' efforts to attain the MBE goals. The award of any project with MBE goals must be concurred with by the MBE Liaison Officer or his/her designee before said contract may be awarded. Should there be disagreement between City's functional units concerning contractors' efforts to attain contract goals for MBE participation, the matter shall be referred to the City Manager or his/her designee, for final determination.



Competitors that fail to meet the MBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the contract.

Any contracts that contain MBE goals, pursuant to this policy, will be monitored on an ongoing basis by project personnel during the course of construction. The MBE Liaison Officer is to be immediately advised of any circumstances wherein contractor compliance with the MBE provision is questionable. The contractor shall submit a final report for each project with MBE goals which includes total payment to the prime contractor as well as payments the prime contractor has made to MBE subcontractors, vendors and suppliers. If the report indicates the prime contractor has not achieved the project goals, project personnel shall attach an evaluation, in narrative form, of the reasons for failure to attain the goals and any corrective action that was taken.

Prime contractors will be required to notify City personnel of any situation in which regularly scheduled progress payments are not made to MBE subcontractors, vendors or suppliers.

XI. Set-Asides

If determined necessary by the MBE Liaison Officer, City will consider the use of MBE set-asides as a tool to achieve the overall City goal.

XII. Counting MBE Participants

City, its contractors, and subcontractors shall count MBE participation in accordance with the provisions of Section 23.47, Title 49, of the Code of Federal Regulations.

XIII. Records and Reports

The MBE Liaison Officer shall maintain such records, and provide such reports, as are necessary to ensure full compliance with this policy. Such records and reports shall include, as a minimum, the following information:

- o Procedures which have been adopted to comply with this MBE policy.
- o Awards to MBE's.
- o Awards to majority contractors.
- o Final project reports concerning MBE utilization.
- o Such other data as is needed to fully evaluate City's compliance with this program.

The MBE Liaison Officer shall submit reports to Caltrans and to U.S. DOT elements as required. These reports will include:

- o Number and dollar value of contracts awarded.



- o Number and dollar value of contracts and subcontracts awarded to MBE's.
- o Description of general categories of contracts awarded to MBE's.
- o The percentage of the dollar value of all contracts awarded during the quarter which were awarded to MBE's.
- o Indication as to the extent of which the percentage met or exceeded the overall City's goal.
- o Reports shall be broken down separately by ethnic grouping and sex.

XIV. MBE Listing

City will utilize a listing of firms certified by Caltrans to be Minority Businesses in accordance with the DOT Order. This listing will be developed and maintained in accordance with Section 23.51, 23.53, 23.55 and 23.87 of 49 CFR. This listing shall be made available to prospective contractors at no charge.

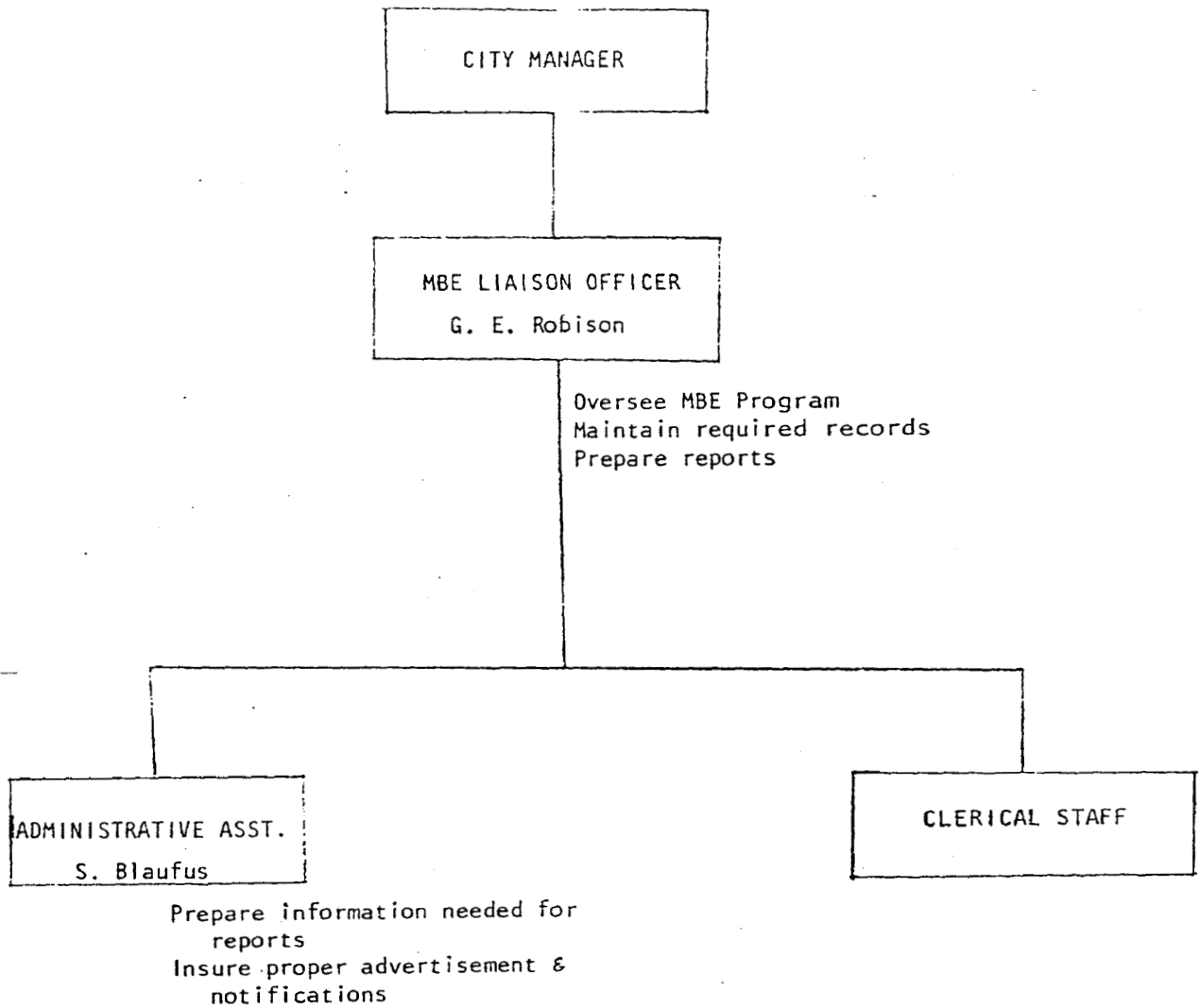
Contractors will be permitted to rely upon the authenticity of firms listed in this Directory. A contractor desiring to use an MBE not included in the Caltrans certified listing will be allowed to do so, but will be required to provide the appropriate certification from the MBE before such participation is counted towards award of the project.

XV. Complaints

Any complaints received by City concerning this program will be investigated by City. City will endeavor to resolve said complaints within 90 days of receipt by the MBE Liaison Officer. The appropriate DOT element and Caltrans will be furnished a copy of the complaint and may be invited to participate in the investigation/resolution. The DOT element and Caltrans will receive a complete investigative report on the complaint and may be requested to concur in the proposed disposition of said complaint.

Contractors will be directed to notify City of any complaints they may receive concerning this program.







CITY OF LODI

CITY OF LODI'S OVERALL DB AND WBE GOALS

ATTACHMENT "B"

The City of Lodi has established an overall disadvantaged business participation goal of ten percent and a woman owned business participation goal of one percent.

These goals were established by the City based on the type of construction that is expected to be completed this year and the number of DBs and WBEs available in the area. Also taken into consideration were the goals which have been established and found to be reasonable by other area agencies.



## SPECIAL PROVISIONS

DISADVANTAGED BUSINESS - This project is subject to Part 23, Title 49, Code of Federal Regulations entitled "Participation By Minority Business Enterprise in Department of Transportation Programs." Portions of the Regulations, including portions of Subpart D which defines Disadvantaged business (DB) and includes other provisions implementing Section 105(f) of the 1982 Surface Transportation Act, are set forth in Section 6-1.04, of these Special Provisions, and the Regulations in their entirety are incorporated herein by this reference.

Bidders shall be fully informed respecting the requirements of the Regulations and the City's Disadvantaged Business (DB) and Woman owned Business Enterprise (WBE) programs developed pursuant to the Regulations; particular attention is directed to the following matters:

- (a) A DB or WBE must be a small business concern as defined pursuant to Section 3 of U.S. Small Business Act and relevant regulations promulgated pursuant thereto;
- (b) A DB or WBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, or vendor of material or supplies;
- (c) A DB or WBE joint venture partner must be responsible for a clearly defined portion of the work to be performed in addition to satisfying requirements for ownership and control. The MBE joint venturer must submit Schedule B of the Regulations;
- (d) A DB or WBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work;
- (e) Credit for a DB or WBE vendor or materials or supplies is limited to 20 percent of the amount to be paid to the vendor for the material unless the vendor manufactures or substantially alters the goods;
- (f) A DB or WBE must be certified before credit may be allowed toward the DB and WBE goal. The City's DB and WBE Directory identifies DBs and WBEs which have been certified and others which may qualify for certification. The DB and WBE directory may be obtained from:

City of Lodi  
DB and WBE Liaison Officer  
221 W. Pine Street  
Lodi, CA 95240

- (g) Noncompliance by the Contractor with the requirements of the regulations constitutes a breach of this contract and may result in termination of the contract or other appropriate remedy for such breach;
- (h) Bidders are encouraged to utilize services offered by banks owned and controlled by minorities or women.

DB and WBE GOALS FOR THIS PROJECT - The City has established goals of \_\_\_\_\_ percent for disadvantaged businesses (DB) participation and \_\_\_\_\_ percent for woman owned business enterprises (WBE) participation.



It is the bidder's responsibility to make a sufficient portion of the work available to subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DB and WBE subcontractors and suppliers, so as to assure meeting the goal for DB and WBE participation.

SECTION \_\_\_\_\_ - SUBMISSION OF MINORITY BUSINESS ENTERPRISE  
INFORMATION, AWARD AND EXECUTION OF CONTRACT

\_\_\_\_\_ GENERAL - The bidder's attention is directed to the provisions in Section 3, "Award and Execution of Contract," of the Standard Specifications and these Special Provisions for the requirements and conditions concerning submittal of DB and WBE information, award and execution of contract.

\_\_\_\_\_ DB and WBE INFORMATION - The apparent successful bidder (low bidder) shall submit DB and WBE information to the Public Works office at 221 West Pine Street, Lodi, CA 95240 no later than \_\_\_\_\_, unless a later time is authorized by the City. Other bidders need not submit DB and WBE information unless requested to do so by the City. When such request is made, the DB and WBE information of such bidder shall be submitted within 5 days, unless a later time is authorized by the City. The information shall include:

- (1) Names of DBs and WBEs to be used, with a complete description of work or supplies to be provided by each and the dollar value of each such DB and WBE transaction;  
(Note: DB and WBE subcontractors for signal and lighting items, if there are such items of work, must have been named in the bid;
- (2) A "Disadvantaged and Women-Owned Business Enterprise Questionnaire" (Schedule A) for each DB and WBE not already certified;
- (3) Schedule B for each DB and WBE joint venturer.

Bidders whose submittal in (1) above indicates they will meet the stated DB and WBE goal need not submit any further DB and WBE information, unless the City in its review finds that the goal has not been met, in which case additional information will be requested by the City. The additional information may be requested to clarify claimed DB and WBE participation, add DB and WBE participation, or demonstrate that a good faith effort was made to meet the DB and WBE goal. Such information shall be submitted promptly upon request by the City.

It is the bidder's responsibility to meet the goal of DB and WBE participation or to provide information to establish good faith efforts to do so. Such information should include the following:

- (4) The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for DB and WBE participation for this project was placed by the bidder;
- (5) The names and dates of notices of all certified DBs and WBEs solicited by direct mail for this project;
- (6) The items of work for which the bidder requested subbids or materials to be supplied by DBs and WBEs;



- (7) The names of DBs and WBEs who submitted bids for any of the work indicated in (6) above which were not accepted, the name of the subcontractor or supplier that was selected for that portion of work, and the reasons for the bidder's choice. (If the reason was price, give the price bid by the rejected DB or WBE and the price bid by the selected subcontractor or supplier.);
- (8) Assistance that the bidder has extended to DBs and WBEs identified in (7) above to remedy the deficiency in the DBs and WBEs subbids;
- (9) Any additional data to support a demonstration of good faith effort, such as contacts with DB and WBE assistance agencies.

AWARD OF CONTRACT - The award of contract, if it be awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements prescribed and who has met the goal for DB and WBE participation or has demonstrated, to the satisfaction of the City, good faith effort to do so. Meeting the goal for DB and WBE participation or demonstrating, to the satisfaction of the City, good faith efforts to do so is a condition for being eligible for award of contract.

DB and WBE RECORDS - The Contractor shall maintain records of all subcontracts entered into with certified DB and WBE subcontractors and records of materials purchased from certified DB and WBE suppliers. Such records shall show the name and business address of each DB and WBE subcontractor or vendor and the total dollar amount actually paid each DB and WBE subcontractor or vendor.

Upon completion of the contract, a summary of these records shall be prepared and certified correct by the Contractor or Contractor's authorized representative, and shall be furnished to the Engineer.